

**PLANNING AND ZONING COMMISSION  
MINUTES  
EXECUTIVE SESSION/PUBLIC HEARING/GENERAL MEETING  
January 27, 2004**

PLACE: Rooms 213 & 206  
Town Hall

TIME: 7:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:  
Damanti, Forman, Spain, Bigelow, Kenny, Conze

STAFF ATTENDING: Ginsberg (also serving as recorder)

OTHERS ATTENDING: James Murphy, Esq., Town Counsel

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**Executive Session to discuss pending litigation. (Room 213)**

Mr. Bigelow made a motion to go into Executive Session to discuss pending litigation. That motion was seconded by Mr. Kenny and unanimously approved. Mr. Bigelow then made a motion to invite Mr. Ginsberg and Mr. Murphy to join the Commission in said Executive Session. That too, was seconded by Mr. Kenny and unanimously approved. The Commission then discussed two separate pending litigation matters. No votes were taken, nor were any decisions made.

At 8:10 p.m., the Commission then adjourned to Room 206 for a Public Hearing and General Meeting. Mr. Damanti read the first agenda item.

**Mandatory Referral, Coastal Site Plan Review #167-B, Flood Damage Prevention Application #176-B, Darien Sewer Commission/DPW, Long Neck Point Road, Pear Tree Point Road, Crane Road sewer extension project.** Proposal to construct a sanitary sewer line within the bridge deck of the Ring's End Road bridge, to connect the proposed (and previously approved) sanitary sewer line on Long Neck Point Road to the existing sewer on Ring's End Road. The proposed sewer line will be located within the right-of-way of Ring's End Road, which is shown on Tax Assessors' Map #51.

Darren Oustafine, Assistant Director of Public Works, was present along with Michael Fishman of Stearns & Wheler to present the application. Mr. Oustafine noted that they were present this evening for a Coastal Site Plan Review, Flood Damage Prevention Application, and the Mandatory Referral report under Section 8-24 of the Connecticut General Statutes. Mr. Oustafine explained that the Plan has changed in a number of ways. First, the original proposal noted that directional drilling would be occurring under the river. However, some rock was encountered during boring tests. He noted that the drilling pressures become higher with rock, which then increases the environmental risk of the project. Instead of using directional boring, the current plan is to go through the middle of the Ring's End Bridge decking with a trench 14 inches wide.

The service area for the sewer project has not changed. Mr. Conze then asked why it would not be easier just to move away from the rock ledge and continue plans to use directional drilling. Mr. Oustafine replied that a massive staging area is needed for this project. He said that other options were explored, but they involved using private property. The Sewer Commission was discouraged from proceeding in that direction. Other borings were also done to review possible options. Mr. Oustafine noted that as part of the recent Ring's End Bridge project, one sidewalk was eliminated and all utilities

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were pushed to one side of the bridge. There was no room for the sewer to be installed. He explained that in some areas, rock is 10 feet beneath the soil.

Michael Fishman of Stearns & Wheler said that he has been hired by the Sewer Commission for this project. He then addressed environmental issues. He noted that the original DEP permit issued for this project had very strict time frames. The DEP prefers the bridge crossing over the directional drilling. Mr. Damanti asked why the boring was not done earlier in the process. Mr. Oustafine then replied that there has been concern about doing even more borings, as it may be considered environmentally risky. He reiterated that staging areas would not be possible if this project was moved 20 feet away. Mr. Spain then asked if the engineers have certified that the Bridge can carry the sewer line. He asked if there were any structural concerns. Mr. Oustafine replied that the project has been properly engineered, and under the proposal there would be two manholes with by-pass connections. Mr. Bigelow then asked if the contractor has been involved in the project all along. Mr. Oustafine responded that the contractor has been involved throughout the process. He noted that there will be an inspector on-site full time when cutting open the bridge. Mr. Kenny asked about the possibility of putting a pipe underneath the bridge. Mr. Oustafine responded that the Ring's End Bridge is considered a landmark in Town, and he did not believe it would be appropriate to "hang" a pipe on the Bridge.

Mr. Ginsberg noted that the EPC approved this project in December 2003. Mr. Damanti then asked if there were any questions or comments from audience members. There were none. Then, on a motion from Mr. Spain, seconded by Mr. Kenny, the public hearing on this matter was closed at 8:35 p.m.

Mr. Damanti read the next agenda item.

**Coastal Site Plan Review #186-A, Flood Damage Prevention Application #198-A, Denis & Jennifer Manelski, 11 Pratt Island.** Proposing to raze the existing residence, garage and greenhouse, and construct a new residence on the existing foundation with an addition, a garage, and a swimming pool, and perform related site development activities within regulated areas. The subject property is located on the south side of Pratt Island approximately 1,150 feet south of the intersection of Nearwater Lane and Baywater Drive, and is shown on Tax Assessor's Map #55, as Lots #121 and #122 in the R-1 Zone.

Mr. Damanti noted that the Manelski matter would be continued to February 24<sup>th</sup> at 8:00 p.m. in Town Hall.

Mr. Damanti then read the next agenda item.

**Special Permit Application #234, Jay Ragusa d/b/a Gofer Ice Cream, LLC, 1014 Boston Post Road.** Proposing to establish an ice cream parlor within the existing building. Subject property is located on the south side of Boston Post Road approximately 275 feet northeast of its intersection with Corbin Drive, and is shown on Tax Assessor's Map #72 as Lot #11, in the CBD Zone.

Jeff Williams was present on behalf of the applicant. He noted that the proposed space to be used by the ice cream parlor was used as a barber shop for over 30 years by Tom Sci. It then converted to being a phone store, and since that time has been used as RTC Headquarters, and by artist Chet Saur for retail sales of her paintings. The store is now vacant, and the applicant proposes to establish an ice cream parlor in that space.

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The space consists of 468 square feet with 65 square feet for storage and bathroom areas. The total rentable square footage is 533 square feet. Mr. Williams explained that employees will be able to park in the rear of 1010 Post Road which is now used by a carpet and tile store. He expected that there would be two to four employees at its busiest time which is obviously in the summer. Mr. Williams then referred to a letter from Dan Dolcetti dated December 18, 2003 which allows the employees from Gofer Ice Cream to park in the rear section of 1010-1012 Boston Post Road, the adjacent property owned by Mr. Dolcetti. Mr. Williams added that there are two spaces behind the subject building which can be used for Gofer Ice Cream customers. Commission members noted that although there may be parking in the rear of the building, there is no customer access to the building from the rear—they would have to walk around to the front to enter. Mr. Williams explained that this space is unique, in that there is on street parking both in front of the store, as well as across the street. Mr. Williams explained that a dry cleaner within the same building has been there for 30 years and is a very low impact tenant. In his experience, he has hardly seen more than one or two customers there at any one time. He then explained that it is likely that the ice cream parlor could expect people walking from the movie theatre after a show to have an ice cream, and he would not expect those people to drive from the movie theatre to the ice cream parlor.

In response to a question from Mr. Ginsberg, Mr. Williams confirmed that the proposal is to have two tables and four seats and no eating counter. The revised space layout received in the Planning & Zoning Office on January 26, 2004 was then referred to. Mr. Ginsberg confirmed that Vince Proto of the Darien Health Department, and Bob Buch, the Fire Marshal, are still reviewing those revised space layout/floor plans and are working with the applicant on an appropriate design that meets each of their specific requirements. There being no other questions from Commission members or the general public, Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Ms. Forman, and unanimously approved, and the Commission then closed the public hearing at 8:45 p.m.

Mr. Damanti read the next item on the agenda:

**Coastal Site Plan Review #125-B, Flood Damage Prevention Application #123-B, John B. Ward, 32 Beach Drive.** Proposal to construct additions and alterations to the existing residence and perform related site development activities within regulated areas. The subject property is located on the west side of Beach Drive approximately 225 feet south of its intersection with Outlook Drive, and is shown on Tax Assessor's Map #53 as Lot #6 in the R-1/2 Zone.

Jeff McDougal of William W. Seymour & Associates was present on behalf of the applicant. He explained that the new work has been elevated to Elevation 14. The existing house is at Elevation 13.8. Mr. McDougal explained that the ZBA has approved variances as part of Calendar No. 97-2003. That variance approval had a number of conditions. The proposal includes lifting the mechanical units to be at or above the flood elevation, and the basement will be used for storage only. Mr. McDougal confirmed that there will be no grading whatsoever as part of this project. He explained that an Environmental Assessment Report has been submitted as part of this application. Mr. McDougal confirmed that they are scheduled to meet with the EPC on February 4, 2004 to discuss this matter.

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Mr. Gene Salvatore explained that the HVAC units will be in the attic. The condenser units will be on the ground on a platform. Mr. Damanti, in reviewing the plans, noted that the building coverage was very close to the 20% maximum, and the building height was very close to the 30 foot maximum. He emphasized that as part of the Zoning & Building Permit process, the Zoning Enforcement Officer must check the plans very closely to ensure that the proposal does not exceed maximum building coverage or building height. Mr. McDougal confirmed that Mr. Keating spoke to him earlier in the day about the garage. He explained that the first floor of the house is at Elevation 13.8, and that there is no need for risers from the garage into the house.

There being no other comments from the Commission members or the general public, on a motion by Mr. Bigelow, seconded by Ms. Forman, this matter was continued to the Planning & Zoning Commission meeting of February 24, 2004 in Town Hall. This will allow the Commission members to receive the EPC action on the application.

Mr. Damanti read the next agenda item:

**Coastal Site Plan Review #189, Nine Pratt Island Trust, 9 Pratt Island.** Proposing to raze a portion of the existing residence and reconstruct that portion of the residence and perform related site development activities within a regulated area. The subject property is located the south side of Pratt Island approximately 1,100 feet south of its intersection with Nearwater Lane, and is shown on Tax Assessor's Map #55 as Lot #117 in the R-1 Zone.

Attorney Wilder Gleason of Gleason Hill & Ambrette was present on behalf of the Nine Pratt Island Trust. He explained that the property is shown on Tax Assessor's Map #55 as Lot #117. The property is .76 acres in an R-1 Zone, and has an existing residence on it. The lot was created in 1949. Mr. Gleason then submitted a copy of the deed, and explained that the house does not comply with current setbacks. A portion of the property is in Flood Zone AE Elevation 12. The first floor of the existing house is at Elevation 15.5 and above. Mr. Gleason then explained that under the Darien Zoning Regulations, all of the yard setbacks are 40 feet (rear lot lines), as the property has no frontage on a street. He said that there are three portions of the house that extend into the setbacks. Those portions of the house will be preserved.

Architect Roger Bartels then explained that they are cutting the gable roof to a hip roof in two places. Therefore, they will be removing some of the bulk from the roof. He referred to submitted photographs of the residence and a colored version of the Elevations (Sheet 3, last revised 1-26-04). He did not want to increase the non-conformity of the house, and they are proposing to remove part of the existing house down to the foundation. He explained that in his opinion, the foundation is good. Mr. Gleason added that the new house will connect to the now available sewer system, and they will be abandoning the septic system. Mr. Gleason again emphasized that there will be no teardown of the three non-conforming wings of the house. Mr. Bartels mentioned that they will be preserving the walls and most of the roof framing. Mr. Gleason said that the two-inch walls will become four-inch walls. Mr. Bartels explained that the garage will remain. Mr. Gleason said that the building height of the house is 24'3". The cupola extends up to 36'9" to the very top of it. Mr. Bartels noted that the ridge line of the house is at 29'9". He added that the cupola is 6'9" above the ridge line of the house. The cupola is 4½ feet wide on the inside and 5½ feet wide on the outside. There will be a skylight into the cupola. Mr. Gleason confirmed that there will be no light inside the cupola, and was willing to agree to such a condition of approval.

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Mr. Gleason explained that there is a Coastal Area Management Site and Environmental Analysis report dated December 2003 from Stearns & Wheler, which states that this project will have “no adverse environmental impacts.” Mr. Gleason said that the silt fence is tight to the foundation and Sheet 4 of the Stearns & Wheler plans show it being 15 feet away from the proposed construction. By placing the silt fence in this area, existing trees will be protected. He explained that they are proposing to stockpile outside the silt fence between the silt fence and the retaining wall. Mike Fishman of Stearns & Wheler elaborated on that, noting that a modified drawing has been prepared showing this change. That modified plan is entitled, “Coastal Area Management Evaluation Maglathlin Property CAM Site Plan Sheet 3”. This supersedes the Erosion Control Plan Sheet 4, which was submitted as part of this application and a colored version of such referred to earlier in the hearing by Mr. Gleason.

Mr. Gleason explained that the proposed residence will be located outside of the flood zone. The existing house has an enclosed entry area, which will contain the air conditioning compressors for the proposed house. In response to a question, Mr. Ginsberg confirmed that no further approvals are needed for this project from either the ZBA or EPC.

Mr. Peter Maglathlin, the property owner, explained that he spoke with four of the nearby neighbors on Pratt Island. All of them had reviewed the plans and did not have any concerns, however he did not speak with the Mills. Mr. Gleason explained that the Mills’ are a client of his and he did speak with them about this project and they had no concerns. Mr. Gleason added that this property is one of the highest points on Pratt Island and the proposed additions and alterations will not affect the views of other nearby property owners. Mr. Ginsberg then summarized the comments from Mr. Keating regarding the HVAC units, the height of the cupola, and the questions regarding what portions of the house will be retained and exactly what will be retained. There being no other questions from Commission members or the general public, on a motion by Ms. Forman, seconded by Mr. Spain, the public hearing on this matter was closed at 9:10 p.m.

Mr. Damanti read the next agenda item:

**Flood Damage Prevention Application #200, Land Filling & Regrading Application #114, Carol Tellini, Ashton Holdings, LLC, 24 Lake Drive.** Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within a regulated area. Subject property is located on the north side of Lake Drive approximately 1,000 feet west of its intersection with Hoyt Street, and is shown on Tax Assessor’s Map #30 as Lot #10, in the R-1/3 Zone.

Ted Milone, PE, of Redniss & Mead, was present on behalf of the applicant. He explained that the proposal is to demolish the existing residence and construct a new single-family residence on the subject property. The property is approximately .3 acres, a portion of which is in the flood zone. Mr. Milone said that the existing design keeps water flows to be preconstruction levels. He explained that EPC did not want the flows changed into the wetlands, and there is a slight increase of water to the pond across the street. Mr. Milone explained that the EPC approved this application on January 7, 2004 with a condition that there be a 10 foot planting strip near the wetlands. He explained that there will be some regrading to the west portion of the property. In response to that, he suggested including a subtle swale along the western property line. This will reduce the

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possibility of water flowing onto the adjacent property owners land. Mr. Milone explained that there is a catch basin in front of the property that will take some of the water flowing from the front of the property.

He explained that the garage has adequate openings as will the rest of the structure. He then submitted a Certification of Flood Design Compliance dated 27 January 2004 from Harrison Gill of Gill & Gill Architects.

Mr. Milone explained that Mr. Keating requested that another anti-tracking pad be installed and a silt and/or construction fence be placed along the front property line. This will substantially reduce the amount of silt and other materials coming onto Lake Drive. Mr. Ginsberg then outlined the three concerns from Mr. Keating: 1) necessary certification from the engineer needs to be submitted; 2) a subtle drainage swale should be installed along the west property line to minimize the possibility of water flowing onto the neighbor's property; 3) the installation of another anti-tracking pad and an additional silt or construction fence along the front property line to minimize erosion.

Mrs. Barbara Dalto of 22 Lake Drive then spoke. She explained that Ms. Tellini is proposing to construct a bigger house, and thus she has concerns about drainage from that proposed residence. Mr. Milone responded that the gutters and leaders on the downspouts will be placed towards the lawn into the wetlands to the rear, or towards the front into the catch basin in front of the property. Mr. Spain then summarized by noting that although this is a larger house there would be no more water flowing off the property than there is now. Mr. Milone confirmed that. Mr. Damanti also summarized by telling Mrs. Dalto that the proposed construction has been designed to not make matters worse, but it will not necessarily make matters better. He explained to Mrs. Dalto that if she finds that there are significantly worse water problems, she should contact the Zoning Enforcement Officer.

There being no other comments from Commission members or the general public, a motion was then made by Mr. Spain, seconded by Ms. Forman to close the public hearing. That motion was passed unanimously. Mr. Milone noted that he had one other item that he had forgotten to mention to the Commission. On a motion by Ms. Forman, seconded by Mr. Spain, and unanimously approved, the Commission then made a motion to immediately reopen the public hearing on the 24 Lake Drive matter very briefly. Mr. Milone explained that they had proposed to modify one set of stairs in the rear and change it from a stairway to a bilco hatch. That was shown on a revised 8 ½ x 11" site plan diagram dated 23 Jan 2004. Commission members had no comments or concerns about the bilco hatch. Mr. Damanti asked Mrs. Dalto if she had any questions or concerns about the bilco hatch. She had none. Then, there being no other questions or concerns from either Commission members or the general public, on a motion by Ms. Forman, seconded by Mr. Spain, and unanimously approved, the public hearing on this matter was then closed.

Mr. Damanti read the next agenda item.

**Land Filling & Regrading Application #30-A, Brian & Casey Lange, 20 Circle Road.** Proposal to remove the top of the existing ledgerock hill and add topsoil to create a relatively level area and perform related site development activities. Subject property is located on the northeast side of Circle Road, approximately 1800 feet south of its intersection with Old King's Highway North, and is shown on Tax Assessor's Map #33 as Lot #48-B, in the R-1 Zone.

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Mr. Brian Lange was present to explain the application. He said that they will be taking the top of the hill in the back and removing ledge to create a relatively level play area. The amount of ledge to be removed will depend on how hard the ledge rock is. He expected that approximately 865 square feet plus or minus will be removed and pushed to the side. The total amount of work could be up to 2,900 square feet. He estimated based on information from Bruno Construction that there would be four loads of materials each containing approximately 20 cubic yards. Thus, there could be up to 80 cubic yards of fill needed for this project.

Mr. Lange confirmed that the entire work area will be within the setbacks for zoning on this property. He said that they will be using a holing ram to remove the ledge, with the hope that the ledge rock is soft enough. There were no questions from Commission members or the general public on this application. Then on a motion by Mr. Spain, seconded by Ms. Forman, and approved by a vote of 6-0, the public hearing on this matter was then closed.

Mr. Damanti then stated that there were no further public hearing items, and he explained that the Commission will now be addressing the general meeting portion of the agenda.

**GENERAL MEETING**

**Approval of Minutes**

*October 7, 2003          General Meeting*

Mr. Damanti asked if Commission members had any comments on the October 7, 2003 minutes. It was acknowledged that there was one change on page 2 of the minutes where a paragraph needed to be removed. With that one change, on a motion by Mr. Kenny, seconded by Mr. Spain, those minutes were approved as modified, by a vote of 5 to 0, with Mr. Conze abstaining as he was not at that meeting.

*January 6, 2004          Executive Session/General Meeting*

On a motion by Mr. Spain, seconded by Mr. Bigelow, the January 6, 2004 meeting minutes were approved, by a vote of 5 to 0, with Mr. Kenny abstaining as he was not at that meeting.

*January 13, 2004          Executive Session/General Meeting*

On a motion by Mr. Spain, seconded by Mr. Kenny, the January 13, 2004 meeting minutes were approved, by a vote of 5 to 0, with Mr. Conze abstaining as he was not at that meeting.

There being no other business, the meeting was then adjourned at 9:45 p.m.

Respectfully submitted,

Jeremy B. Ginsberg  
Planning & Zoning Director